

UNITED STATES DISTRICT COURT

DISTRICT OF MINNESOTA

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IN RE: STRYKER REJUVENATE )  
AND ABG II HIP IMPLANT ) Case No. 13-MD-2441 (DWF/FLN)  
PRODUCTS LIABILITY LITIGATION )  
\_\_\_\_\_)  
\_\_\_\_\_ ) St. Paul, Minnesota  
This Document Relates to ) January 22, 2015  
All Actions ) 9:18 a.m.  
\_\_\_\_\_ )  
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BEFORE **THE HONORABLE DONOVAN W. FRANK**  
UNITED STATES DISTRICT COURT JUDGE AND  
MAGISTRATE JUDGE FRANKLIN L. NOEL

**STATUS CONFERENCE**

**APPEARANCES:**

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Proceedings recorded by mechanical stenography;  
transcript produced by computer.



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**APPEARANCES (Continued):**

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**APPEARANCES (Continued):**

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**P R O C E E D I N G S**

**I N O P E N C O U R T**

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2  
3 THE HONORABLE JUDGE FRANK: You may all be seated.  
4 Thank you.

5 First of all, in addition to welcoming everyone,  
6 not unlike other hearings, I would ask everyone, and we will  
7 try to follow suit as well on the bench, everybody will have  
8 to speak into the microphones whether they're at counsel  
9 table or at the podium; otherwise, the individuals on the  
10 phone cannot hear.

11 These are not these fancy entertainer microphones,  
12 so unless you're fairly close to the mikes, because we all  
13 have the same, it will not pick any of us up. And then  
14 Brenda Schaffer said there is a large number of individuals  
15 on the telephone today.

16 And because they can't -- they can hear, but they  
17 can't speak into the microphones, I'm assuming for those  
18 listening that if they have questions after this status  
19 conference is over, they will reach out either to the  
20 parties or to the Court and then we, of course, put any  
21 updates that are requested on the website.

22 Why don't we have introductions first? Again,  
23 keeping in mind that if you don't speak into a microphone,  
24 the people listening cannot hear.

25 I'll first indicate that not unlike prior

1 hearings, Magistrate Judge Noel and myself have been with  
2 counsel in chambers this morning, as we usually meet before  
3 we head to the courtroom. So, why don't we hear from  
4 Plaintiffs' counsel first. Just to indicate who's present  
5 for the record, then I'll go over to Defense counsel.

6 MS. ZIMMERMAN: Thank you. Good morning,  
7 Your Honors, Genevieve Zimmerman for the Plaintiffs.

8 MR. GORDON: Good morning. Ben Gordon for  
9 Plaintiffs.

10 MR. FLOWERS: Good morning, Your Honors. Pete  
11 Flowers for Plaintiffs.

12 MS. FLEISHMAN: Good morning, Your Honors. Wendy  
13 Fleishman for the Plaintiffs.

14 MR. ZIMMERMAN: Good morning, Charles Zimmerman  
15 for the Plaintiffs, Your Honor.

16 MR. DeGARIS: Good morning. Annesley DeGaris for  
17 the Plaintiff, Your Honors.

18 MR. KENNEDY: Good morning. Eric Kennedy,  
19 Plaintiffs.

20 MR. NEMO: Good morning, Your Honors. Tony Nemo,  
21 Plaintiffs.

22 MR. BERNHEIM: Good morning. Jesse Bernheim for  
23 the Plaintiffs, Your Honors.

24 THE HONORABLE JUDGE FRANK: And we can hear from  
25 Defense counsel?

1 MR. GRIFFIN: Good morning, Your Honors.

2 Tim Griffin for the Defendants.

3 MR. CAMPILLO: Ralph Campillo also for the  
4 Defendants. Good morning.

5 MS. CATTULLO: Good morning, Your Honor.  
6 Kim Cattullo for the Defendant.

7 THE HONORABLE JUDGE FRANK: Well, we have a  
8 relatively short agenda, although it's important items  
9 today. So, why don't we proceed, unless counsel has  
10 discussed it on who would like to step to the mike, either  
11 individually or jointly. We can proceed at this time.

12 MR. FLOWERS: Good morning, again, Your Honor.  
13 Pete Flowers for the Plaintiffs.

14 MS. CATTULLO: Good morning, Your Honor,  
15 Kim Cattullo for the Defendants.

16 MR. FLOWERS: So, Your Honor, we thought we would  
17 start out with kind of just an update on where things are  
18 at. If you will recall, there's this two-step process that  
19 we're going through here. Step one is to have all cases  
20 formally register with the Defendant and the processor. And  
21 by that I mean they had a document that they needed to fill  
22 out on a website. And it didn't matter whether the case was  
23 filed, unfiled, qualified or unqualified. You're required  
24 by order to register.

25 And I think from what I understand, that process

1 has been very successful. The super, super majority of  
2 folks have registered. There are a few remaining people in  
3 the MDL who have not that we're going to be contacting and  
4 make sure that they're in compliance with the Order.

5 MS. CATTULLO: Yeah, I agree with Mr. Flowers.  
6 It's been a very successful registration process, actually,  
7 across the country, including the MDL.

8 THE HONORABLE JUDGE FRANK: Any questions,  
9 Judge Noel?

10 THE HONORABLE MAGISTRATE JUDGE NOEL: I have none.

11 THE HONORABLE JUDGE FRANK: Thank you.

12 MR. FLOWERS: Step two in the process, Your Honor,  
13 is the more complicated process, which is the actual and  
14 formal enrollment if you choose to enroll in the settlement.  
15 That enrollment process began on January 16th and closes on  
16 March 2nd.

17 So frankly, we all, from the Plaintiffs' side are  
18 scrambling to make sure that we comply with that -- properly  
19 inform our clients and make the informed decisions or allow  
20 them to make the informed decisions to participate, or in  
21 some circumstances not.

22 We, from the Plaintiffs' side have a  
23 Plaintiffs-only website, number one, as well as Mr. Nemo  
24 seemingly doesn't sleep and answers questions all day from  
25 anyone that has any, and is able and willing to do so, as

1 well as any of us from the Lead Counsel Committee. And all  
2 of the information about that is available on our  
3 Plaintiffs-only website, our own LISTSERV, as well as the  
4 formal settlement website which has been identified  
5 previously.

6 We also will continue on a weekly basis, if not  
7 more, giving updates on how to do that, on issues that  
8 arise, and all of the formal process associated with it.

9 MS. CATTULLO: And Judge, the reports back -- I  
10 think it is, no news is good news, on the Garden City Group.  
11 They are the claims processor. And what I have heard from  
12 Plaintiffs is that they've been very responsive, very good  
13 in terms of the friendliness of the website and the forms.

14 I would reiterate what Mr. Flowers said about  
15 checking in at the website. The formal website is  
16 [www.StrykerModularHipSettlement.com](http://www.StrykerModularHipSettlement.com). All of the forms and  
17 instructions are at that site. And I can't stress enough  
18 for people to be sure that when they submit their claims  
19 forms, which again opened last Friday afternoon, that they  
20 do follow the checklist of documents that are necessary, and  
21 that they do the work on the side before putting it in,  
22 because we want to avoid deficiency notices as much as  
23 possible. So if people can just be sure to check that  
24 website, make sure that they are doing things correctly when  
25 they submit, it will just make the enrollment process and

1 the review process go so much more smoothly.

2 MR. FLOWERS: And I would say, Your Honor, we will  
3 send out another reminder this week to any Plaintiffs on the  
4 phone in terms of the specifics of that process.

5 In terms of the claim process for Garden City, we  
6 from the Plaintiffs' perspective have met with them, as  
7 well. Frankly, we were impressed with how organized they  
8 are, how on the ball they seem to be, and we hope that this  
9 continues to be a smooth process.

10 THE HONORABLE MAGISTRATE JUDGE NOEL: This is  
11 Frank Noel. Just to be sure I'm clear on the two-step  
12 process, the registration is everybody who's had a covered  
13 implant surgically implanted, and who has or may have a  
14 claim relating to it. An enrollment is simply those folks  
15 who actually qualify for settlement under the agreement that  
16 was reached last October.

17 MR. FLOWERS: That's generally correct, Your  
18 Honor, in terms of registration. In terms of enrollment,  
19 it's anyone that is interested in participating in the  
20 settlement program and their lawyer feels they're qualified.

21 THE HONORABLE MAGISTRATE JUDGE NOEL: Okay.

22 THE HONORABLE JUDGE FRANK: I don't know if  
23 Defense counsel wants to add to that at all?

24 MS. CATTULLO: No, that's accurate, Your Honor.

25 THE HONORABLE JUDGE FRANK: And we will be setting

1 a date shortly, here, and I'll call it a tentative date  
2 since most of you -- well, most of you -- all of you have  
3 not had other than until I suggested a date in chambers --  
4 realizing it kind of falls on, for a lot of people's, spring  
5 breaks and so forth. But I'll set up the next date to the  
6 latter part of March.

7 Before we do that, anything, anything further that  
8 you're asking the Court to do at least at this time between  
9 now and the end of March? And as we said in chambers,  
10 whether that's reaching out to some of the other courts  
11 across the country or something else we can do to increase  
12 communications, we will certainly do that.

13 But, anything else, at least, between now --  
14 understanding that we don't put phone blocks on or email  
15 blocks, so if something comes up between now and before our  
16 next date, obviously, you know how to reach out to us.

17 But, anything that needs to be put on the record  
18 or anything further that you're hoping or expecting the  
19 Court to do between now and the end of March?

20 MR. FLOWERS: No, from the Plaintiffs'  
21 perspective, Your Honor. We appreciate the openness of  
22 allowing us to come if we need something. So, thank you.

23 MS. CATTULLO: At this time, Your Honor, for the  
24 Defendants there is nothing pressing. But, we do know where  
25 to reach you if that becomes necessary. Thank you.

1 THE HONORABLE JUDGE FRANK: All right. Did you  
2 have any other questions in that regard, Judge Noel?

3 THE HONORABLE MAGISTRATE JUDGE NOEL: No. Thank  
4 you.

5 THE HONORABLE JUDGE FRANK: What I was going to do  
6 was set the date, and I know a couple of you said in  
7 chambers you may have to check with your respective offices,  
8 look at the dates. So I'll set a tentative date, and then  
9 you can get back to Ms. Schaffer with respect to, well --  
10 because obviously, if we learned that a number of you  
11 couldn't be present unless there was an agreement -- but I  
12 didn't kind of sense that reaction in chambers that, well,  
13 there would be no need to get together. Or, maybe it will  
14 be, well now that we know where we're at, maybe we should be  
15 meeting later than March.

16 But, I'll tentatively set -- and we will put this  
17 on the website -- March 27th, and it will be the normal  
18 protocol. We would meet in chambers at 8:15. And then for  
19 anything that needs to be placed on the record or, at a  
20 minimum, to give an updated status report at 9:00 or soon  
21 thereafter as we get to the courtroom, I'll tentatively set  
22 that, and just encourage all counsel to let the Court know  
23 that, well, here's the problem with that date. And then we  
24 will just -- we'll either leave it or make the necessary  
25 change and make sure we have ample notice to everyone

1 with -- again, something I said a few moments ago -- whether  
2 it's reaching out to other courts in the country or trying  
3 to help coordinate and communicate, please let us --  
4 approach us and we'll do whatever is needed.

5 So, in that context, anything further at this time  
6 from Plaintiffs' counsel?

7 MR. FLOWERS: No, Your Honors. Thank you.

8 THE HONORABLE JUDGE FRANK: For the Defense?

9 MS. CATTULLO: No, Your Honor. Thank you.

10 THE HONORABLE JUDGE FRANK: And then for the  
11 numerous counsel and perhaps other individuals listening on  
12 the phone, I would urge you if -- hopefully you're not  
13 frustrated, but if you had questions or are looking for  
14 other updates, and I heard the encouragement by both counsel  
15 here, whether it's a direct phone call or website visit or  
16 whatever the case may be, I would urge you to do that so we  
17 keep all lines of communication open.

18 With that, hopefully there's not too many people  
19 disappointed who have traveled here from outside the area  
20 that it's unseasonably warm today here. We will adjourn at  
21 this time. And thank you all for being in attendance today.  
22 We are adjourned.

23 ALL COUNSEL: Thank you, Your Honor.

24 THE HONORABLE JUDGE FRANK: Safe travels and hit  
25 some of those good restaurants.

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MR. FLOWERS: Thank you.  
(Adjournment.)

\* \* \*

I, Jeanne M. Anderson, certify that the foregoing  
is a correct transcript from the record of proceedings in  
the above-entitled matter.

Certified by: s/ Jeanne M. Anderson  
Jeanne M. Anderson, RMR-RPR  
Official Court Reporter